

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 4

DOCKET NO.: 2007-0619-MLM-E **TCEQ ID NOS:** RN102755089 AND RN101569879 **CASE NO.:** 34430
RESPONDENT NAME: EFFLUENT RECYCLING, INC.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input checked="" type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: 1010 Benjamin Street, Fort Worth, Tarrant County (Facility 1), 1117 South Commerce, Ranger, Eastland County (Facility 2)

TYPE OF OPERATION: hazardous waste generation, storage, and disposal facility (Facility 1), used oil handling facility (Facility 2)

SMALL BUSINESS: ☒ Yes ☐ No

OTHER SIGNIFICANT MATTERS: There are three complaints. On January 10, 2003, a complaint was received regarding Facility 2, alleging that there were open pits leaking contaminated water into the water supply in the City of Ranger, and that there was an old tanker truck at the property that was leaking diesel fuel. On October 13, 2004, a City of Fort Worth inspection officer reported a significant release/discharge of materials onto the soil that also created a sheen on nearby standing water at Facility 1; an Emergency Response investigation was conducted by TCEQ on November 12, 2004. On November 15, 2005, TCEQ received a complaint alleging improper storage of hazardous materials at Facility 1; a TCEQ investigator went to the Facility and noted various containers of waste on site.

INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on March 23, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Mr. Terry Murphy, Air Enforcement Division, MC 149, (512) 239-5025

TCEQ Regional Contact: Mr. Sam Barrett, DFW Regional Office, MC R-4, (817) 588-5903

Respondent: Mr. Michael Martin, Vice President, Effluent Recycling, Inc., 600 Knight Bridge Road, Weatherford, Texas 76087

Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input checked="" type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Dates of Complaints Relating to this Case: January 10, 2003; October 13, 2004; November 15, 2005</p> <p>Dates of Investigation Relating to this Case: <u>Facility 1:</u> June 6, 2001; October 23, 2001; February 15, 2002; February 19, 2002; and August 2, 2007 <u>Facility 2:</u> April 16, 2003.</p> <p>Dates of NOEs Relating to this Case: August 31, 2001; April 30, 2002; May 21, 2003; and March 26, 2007.</p> <p>Background Facts: This case involves four consolidated enforcement actions (2575, 11640, 33242, and 34430). The EDPRP for case 2575 was filed April 23, 2004. The EDPRP for case 11640 was filed June 8, 2004. The EDPRP for the consolidated case was filed March 31, 2008. The Respondent filed an answer and the case was referred to SOAH. Settlement was achieved January 22, 2009.</p> <p>Current Compliance Status: The Respondent no longer owns the Facility located in Ranger (Facility 2). No compliance documentation has been received regarding the Technical Requirements.</p> <p>MLM: Facility 1:</p> <ol style="list-style-type: none"> Failed to obtain a permit to store hazardous waste [30 TEX. ADMIN. CODE §§ 335.2(a) and 335.43(a) and 40 CFR § 270.1(c)]. Failed to provide a written assessment that was reviewed and certified by an independent, qualified registered professional engineer attesting that the tank and tank system had sufficient structural integrity and was acceptable for the storage and treatment of hazardous waste [30 TEX. ADMIN. CODE § 335.112(a)(9) and 40 CFR § 265.192]. 	<p>Calculated Penalty: \$86,660</p> <p>Total Assessed: \$86,660</p> <p>Total Deferred: \$83,060 <input type="checkbox"/> Expedited Order <input checked="" type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$100/\$3,500</p> <p>The Respondent paid \$100 of the administrative penalty not deferred. The remaining amount of \$3,500 shall be payable in 35 monthly installments of \$100 each.</p> <p>Facility 1: Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Facility 2: Site Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>The Executive Director recognizes that Effluent ceased operations at Facility 2 on or about May 2008, as a result of foreclosure.</p> <p>Technical Requirements:</p> <p>The Respondent shall undertake the following technical requirements at Facility 1:</p> <ol style="list-style-type: none"> Immediately: <ol style="list-style-type: none"> Develop and implement procedures to prevent any unauthorized discharges of wastes, used oil, and any other materials; Begin maintaining documentation of inspections conducted on the in-ground tank and the on-site storage tank; and Remove hazardous waste exceeding the 90 day storage limitation and ensure it is delivered to an authorized treatment, storage, or disposal facility. Within 30 days: <ol style="list-style-type: none"> Ensure that hazardous waste storage tanks are in compliance with secondary containment requirements; Conduct an appropriate hazardous waste determination on all wastes generated at the Facility; Provide additional training to personnel in order to ensure that hazardous waste containers are closed, except when necessary to add or remove waste, and to ensure that containers holding ignitable waste are at least fifty feet from the Facility's property line; Provide a written assessment reviewed and certified by an independent, qualified, registered professional engineer attesting that the in-ground tank on-site storage tank number 330 have sufficient structural integrity and are acceptable for the storing and treating of hazardous waste; and Provide additional training to personnel in order to ensure that notification of reportable discharges or spills are made.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>3. Failed to install and maintain secondary containment which is designed to prevent any migration of wastes or accumulated liquids out of the system into the soil, groundwater, or surface water [30 TEX. ADMIN. CODE § 335.112(a)(9) and 40 CFR § 265.193].</p> <p>4. Failed to provide documentation for inspections conducted on the tank system [30 TEX. ADMIN. CODE § 335.112(a)(9) and 40 CFR § 265.195(g)].</p> <p>5. Failed to prevent the disposal of industrial solid waste in such a manner to cause the discharge or imminent threat of discharge into or adjacent to the waters in the state without specific authorization [30 TEX. ADMIN. CODE § 335.4(1)]</p> <p>6. Failed to conduct complete hazardous waste determinations [30 TEX. ADMIN. CODE § 335.62 and 40 CFR § 262.11].</p> <p>7. Failed to make notifications of reportable discharges or spills into the environment within 24 hours [30 TEX. ADMIN. CODE §§ 327.3(b) and 327.5(c)].</p> <p>8. Failed to close hazardous waste containers except when necessary to add or remove waste, and failed to maintain containers holding ignitable waste at least fifty feet from the Facility's property line [30 TEX. ADMIN. CODE § 335.112(a)(8) and 40 CFR §§ 265.173 and 265.176].</p> <p>9. Failed to provide secondary containment for all areas where used oil is stored, transferred, or otherwise handled, including, but not limited to, loading docks, parking areas, storage areas, and any other areas where shipments of used oil are held for more than 24 hours [30 TEX. ADMIN. CODE § 324.22(d)(3)].</p> <p>10. Failed to obtain a registration for transporting and storing used oil [30 TEX. ADMIN. CODE §§ 324.11(2) and 324.4(2)(C)(i)].</p> <p>11. Failed to establish and maintain financial assurance for soil remediation [30 TEX. ADMIN. CODE §§ 37.2011 and 324.22(b), (c), and (e)].</p> <p>12. Failed to prevent the discharge of used oil to surface soils from tanks and containers [30 TEX. ADMIN. CODE § 324.4(1)].</p> <p>13. Failed to permanently remove from service or bring into timely compliance with upgrade requirements an existing Underground Storage Tank ("UST") system [30 TEX. ADMIN. CODE § 334.47(a)(2)].</p>		<p>3. Within 45 days:</p> <p>a. Submit an administratively complete used oil transportation and storage registration application form, and meet all requirements, including labeling and secondary containment; and</p> <p>b. Submit documentation that demonstrates acceptable financial assurance for soil remediation;</p> <p>4. Within 60 days, bring the existing UST tank into compliance with applicable UST rules and regulations or have it properly removed by a licensed/registered contractor;</p> <p>5. Within 90 days, submit an Affected Property Assessment Report. If response actions are necessary, comply with all applicable requirements of the Texas Risk Reduction Program found in 30 TEX. ADMIN. CODE ch. 350.</p> <p>6. Within 105 days, submit written certification with supporting documentation demonstrating compliance.</p>

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>14. Failed to prevent the discharge of wastes from tanks and containers to surface soils [30 TEX. ADMIN. CODE §335.4(1)].</p> <p>15. Failed to limit storage of hazardous waste to 90 days or less, and failed to prevent the accumulation and/or storage of hazardous waste in tanks without adequate secondary containment, integrity assessment, and recordkeeping [30 TEX. ADMIN. CODE § 335.69(a)(1)(B) and 40 CFR § 265.190].</p> <p>16. Failed to conduct an appropriate hazardous waste determination on wastes generated at the Facility [30 TEX. ADMIN. CODE § 335.62 and 40 CFR § 262.11].</p> <p>Facility 2:</p> <p>1. Failed to deed record and failed to comply with written or electronic notification requirements for the disposal of industrial solid waste [30 TEX. ADMIN. CODE §§ 335.5 and 335.6(a)].</p> <p>2. Failed to manage used oil in such a manner so as to not endanger the welfare of the environment [30 TEX. ADMIN. CODE § 324.4, 40 CFR § 279.12(a), and TEX. WATER CODE § 26.121].</p> <p>3. Failed to maintain six 12,000 gallon used oil tanks in good condition with no visible leaks and labeled or marked clearly with the words "Used Oil" [30 TEX. ADMIN. CODE § 324.6 and 40 CFR § 279.22].</p> <p>4. Failed to provide documentation to meet the rebuttable presumption for used oil as a transporter and processor/re-refiner under the rebuttable presumption of 40 CFR § 279.10(b)(1)(ii) and failed to have a facility analysis plan [30 TEX. ADMIN. CODE §§ 324.1 and 324.12(3), and 40 CFR §§ 279.44(a), 279.53(a), and 279.57].</p> <p>5. Failed to maintain and operate the Facility to minimize the possibility of a fire or explosion. [30 TEX. ADMIN. CODE § 324.12 and 40 CFR § 279.52].</p>		

Penalty Calculation Worksheet (PCW)

TCEQ Policy Revision 2 (09/02) PCW Revision 11/15/02

DATES	
PCW 16-Dec-2003	Screening 4-Jun-2002 Priority Due 2-Oct-2002 EPA Due
RESPONDENT INFORMATION	
Respondent	Effluent Recycling Inc.
Respondent/Site ID No(s)	RN101569879
Facility/Site Region	4 - Dallas/Fort Worth < Major/Minor Source Minor <
CASE INFORMATION	
Enf./Case ID No(s)	34430
Docket No.	2007-0619-MLM-E No. Violations 8
Case Priority	3 < Order Type 1660 without deferral <
Enf. Coordinator	Terry Murphy EC's Unit/Region Team 4 <
Media Program(s)	Industrial and Hazardous Waste <
Admin. Penalty \$ Limit	Minimum \$0 Maximum \$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)		Subtotal 1	\$59,500
ADJUSTMENTS (+/-) TO SUBTOTAL 1			
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.			
Compliance History	0% Enhancement	Subtotals 2, 3 & 7	\$0
Notes	No adjustments are recommended based on Average Performer classification.		
Culpability	0% Enhancement	Subtotal 4	\$0
No < Select Yes/No			
Notes	The respondent does not meet the culpability criteria.		
Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
Before NOV	NOV to EDPRP/Settlement Offer		
Extraordinary			
Ordinary			
None of the above	X (mark with small x)		
Notes	The respondent does not meet the good faith effort criteria.		
Economic Benefit	0% Enhancement*	Subtotal 6	\$0
\$1,578 Total EB Amounts	*Capped at the Total EB \$ Amount		
\$12,300 Approx. Cost of Compliance			
SUM OF SUBTOTALS 1-7		Final Subtotal	\$59,500
OTHER FACTORS AS JUSTICE MAY REQUIRE		Adjustment	\$0
Reduces or enhances the Final Subtotal by the indicated percentage. (enter number only; e.g. -30 for -30%)			
Notes			
		Final Penalty Amount	\$59,500
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty	\$59,500
DEFERRAL		Adjustment	\$0
Reduces the Final Assessed Penalty by the indicated percentage. (enter number only; e.g. 20 for 20% reduction)			
Notes	No deferral is recommended because settlement was not achieved through the expedited process.		
PAYABLE PENALTY			\$59,500

FACILITY 1

EXHIBIT

A

tabbles

Screening Date 4-Jun-2002 **Docket Number** 2007-0619-MLM-E **PCW**
Respondent Effluent Recycling Inc. **Policy Revision 2 (09/02)**
Case ID No. 34430 **PCW Revision 11/15/02**
Respondent/Site ID No. RN101569879
Media [Statute] Industrial and Hazardous Waste
Enf. Coordinator Terry Murphy
Site Address 1010 Benjamin Street, Fort Worth, Texas 76116

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which no violations were disclosed)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No ☐ Select Yes/No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer ☐ Select High, Average or Poor

Adjustment Percentage (Subtotal 7) 0%

Compliance History Summary

Compliance
History
Notes

No adjustments are recommended based on Average Performer classification.

Total Adjustment Percentage (Subtotals 2, 3 & 7) 0%

Screening Date 04-Jun-02	Docket Number 2007-0619-MLM-E	PCW
Respondent Effluent Recycling Inc.		Policy Revision 2 (09/02)
Case ID No. 34430		*PCW Revision 11/15/02
Respondent/Site ID No. RN101569879		
Media [Statute]	Industrial and Hazardous Waste	
Enf. Coordinator	Terry Murphy	
Violation Number	<div style="border: 1px solid black; padding: 2px;">1</div>	
Primary Rule Cite	<div style="border: 1px solid black; padding: 2px;">30 Tex. Admin. Code §§ 335.2(a); 335.43(a) and 40 CFR § 270.1(c)</div>	
Secondary Cite(s)	<div style="border: 1px solid black; padding: 2px;"></div>	
Violation Description	<div style="border: 1px solid black; padding: 5px;">Failed to obtain a permit to store hazardous waste in the on-site storage tank #3, the in ground tank and frac tanks #1 & #2. Specifically, sample results from investigations conducted on October 23, 2001 and February 19, 2002 indicated that the on-site storage tank #3, the in-ground tank, and frac tanks #1 and #2 were managing characteristically hazardous waste.</div>	
	Base Penalty	<div style="border: 1px solid black; padding: 2px;">\$10,000</div>
» Environmental, Property and Human Health Matrix		
	Harm	
	Release	Major Moderate Minor
OR	Actual	<div style="border: 1px solid black; padding: 2px;"></div>
	Potential	<div style="border: 1px solid black; padding: 2px;"></div>
		Percent <div style="border: 1px solid black; padding: 2px;"></div>
» Programmatic Matrix		
	Falsification	Major Moderate Minor
OR	<div style="border: 1px solid black; padding: 2px;"></div>	x
		Percent <div style="border: 1px solid black; padding: 2px;">10%</div>
Matrix Notes	<div style="border: 1px solid black; padding: 5px;">100% of the rule requirement was not met.</div>	
	Adjustment	<div style="border: 1px solid black; padding: 2px;">-\$9,000</div>
	Base Penalty Subtotal	<div style="border: 1px solid black; padding: 2px;">\$1,000</div>
Violation Events		
	Number of Violation Events	<div style="border: 1px solid black; padding: 2px;">18</div>
mark only one; use small x	daily	<div style="border: 1px solid black; padding: 2px;"></div>
	monthly	x
	quarterly	<div style="border: 1px solid black; padding: 2px;"></div>
	semiannual	<div style="border: 1px solid black; padding: 2px;"></div>
	annual	<div style="border: 1px solid black; padding: 2px;"></div>
	single event	<div style="border: 1px solid black; padding: 2px;"></div>
		Violation Base Penalty
		<div style="border: 1px solid black; padding: 2px;">\$18,000</div>
Events Notes	<div style="border: 1px solid black; padding: 5px;">Eighteen monthly events are recommended from the period of October 23, 2001 (date of inspection) to April 6, 2003 (settlement termination date).</div>	
Economic Benefit (EB) for this violation		Statutory Limit Test
	Estimated EB Amount (\$)	<div style="border: 1px solid black; padding: 2px;">\$279</div>
	Violation Final Penalty total	<div style="border: 1px solid black; padding: 2px;">\$18,000</div>
	This Violation Final Assessed Penalty (adjusted for limits)	
		<div style="border: 1px solid black; padding: 2px;">\$18,000</div>

Economic Benefit Worksheet

Respondent Effluent Recycling Inc.

ID Number(s) 34430

Media [Statute] Industrial and Hazardous Waste

Violation Number 1

Percent
InterestYears of
Depreciation

5.0

15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$2,500	23-Oct-2001	17-Jan-2004	2.2	\$279	n/a	\$279
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain a permit for storing hazardous waste.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance \$2,500

TOTAL

\$279

Screening Date 04-Jun-02	Docket Number 2007-0619-MLM-E	PCW												
Respondent Effluent Recycling Inc.		Policy Revision 2 (09/02)												
Case ID No. 34430		PCW Revision 11/15/02												
Respondent/Site ID No. RN101569879														
Media [Statute]	Industrial and Hazardous Waste													
Enf. Coordinator	Terry Murphy													
Violation Number	2													
Primary Rule Cite	30 Tex. Admin. Code § 335.112(a)(9) and 40 CFR § 265.192													
Secondary Cite(s)														
Violation Description	<p>Failed to provide written assessment that was reviewed and certified by an independent, qualified registered professional engineer attesting that the tank and tank system had sufficient structural integrity and was acceptable for the storage and treatment of hazardous waste. Specifically, Respondent was unable to provide any written assessments that were reviewed and certified by an independent, qualified, registered professional engineer for the in-ground tank and the on-site storage tank #3.</p>													
	Base Penalty	\$10,000												
» Environmental, Property and Human Health Matrix														
	Harm													
	Release	Major Moderate Minor												
OR	Actual	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%; height: 20px;"></td> <td style="width: 33%; height: 20px;"></td> <td style="width: 33%; height: 20px;"></td> </tr> <tr> <td style="height: 20px;"></td> <td style="height: 20px;"></td> <td style="height: 20px;"></td> </tr> </table>												
	Potential													
		Percent 												
» Programmatic Matrix														
	Falsification	Major Moderate Minor												
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%; height: 20px;"></td> <td style="width: 33%; height: 20px; text-align: center;">x</td> <td style="width: 33%; height: 20px;"></td> </tr> </table>		x		Percent 10%									
	x													
Matrix Notes	100% of the rule requirement was not met.													
	Adjustment	-\$9,000												
	Base Penalty Subtotal	\$1,000												
Violation Events														
	Number of Violation Events	1												
mark only one; use small x	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="width: 30px;">daily</td><td style="width: 50px; height: 20px;"></td></tr> <tr><td>monthly</td><td style="height: 20px;"></td></tr> <tr><td>quarterly</td><td style="height: 20px;"></td></tr> <tr><td>semiannual</td><td style="height: 20px;"></td></tr> <tr><td>annual</td><td style="height: 20px;"></td></tr> <tr><td>single event</td><td style="height: 20px; text-align: center;">x</td></tr> </table>	daily		monthly		quarterly		semiannual		annual		single event	x	Violation Base Penalty
daily														
monthly														
quarterly														
semiannual														
annual														
single event	x													
		\$1,000												
Events Notes	One single event is recommended based on the February 15, 2002 investigation date.													
Economic Benefit (EB) for this violation		Statutory Limit Test												
	Estimated EB Amount (\$)	\$144												
	Violation Final Penalty total	\$1,000												
	This Violation Final Assessed Penalty (adjusted for limits)	\$1,000												

Economic Benefit Worksheet

Respondent Effluent Recycling Inc.
 ID Number(s) 34430
 Media [Statute] Industrial and Hazardous Waste
 Violation Number 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)	\$1,500	15-Feb-2002	17-Jan-2004	1.9	\$144	n/a	\$144

Notes for DELAYED costs

Estimated cost to provide written assessment that is reviewed and certified by an independent, qualified registered professional engineer.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance \$1,500

TOTAL \$144

Screening Date	04-Jun-02	Docket Number	2007-0619-MLM-E	PCW
Respondent	Effluent Recycling Inc.	Policy Revision 2	(09/02)	
Case ID No.	34430	PCW Revision	11/15/02	
Respondent/Site ID No.	RN101569879			
Media [Statute]	Industrial and Hazardous Waste			
Enf. Coordinator	Terry Murphy			
Violation Number	3			
Primary Rule Cite	30 Tex. Admin. Code § 335.112(a)(9) and 40 CFR § 265.193			
Secondary Cite(s)				
Violation Description	Failed to install and maintain secondary containment which is designed, installed and operated to prevent any migration of wastes or accumulated liquids out of the system to the soil, ground water, or surface water at any time during the use of the tank system. Specifically, there was no secondary containment for the in-ground tank or on-site storage tank #3.			

Base Penalty \$10,000

» Environmental, Property and Human Health Matrix

		Harm			
	Release	Major	Moderate	Minor	
OR	Actual				
	Potential		x		Percent 10%

» Programmatic Matrix

	Falsification	Major	Moderate	Minor	
OR					Percent

Matrix Notes

Human health and the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or the environment.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 7

mark only one; use small x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$7,000

Events Notes

Seven quarterly events are recommended from the period of October 23, 2001 (date of inspection) to April 6, 2003 (settlement termination date).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$) \$335

Violation Final Penalty total \$7,000

This Violation Final Assessed Penalty (adjusted for limits) \$7,000

Economic Benefit Worksheet

Respondent Effluent Recycling Inc.
 ID Number(s) 34430
 Media [Statute] Industrial and Hazardous Waste
 Violation Number 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	------------------------------	---------------	------------	-----	----------------	---------------	-----------

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)	\$3,000	23-Oct-2001	17-Jan-2004	2.2	\$335	n/a	\$335

Notes for DELAYED costs

Estimated cost to provide secondary containment.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance \$3,000

TOTAL \$335

Screening Date 04-Jun-02	Docket Number 2007-0619-MLM-E	PCW
Respondent Effluent Recycling Inc.		Policy Revision 2 (09/02)
Case ID No. 34430		PCW Revision 11/15/02
Respondent/Site ID No. RN101569879		
Media [Statute] Industrial and Hazardous Waste		
Enf. Coordinator Terry Murphy		
Violation Number	<div style="border: 1px solid black; padding: 2px; text-align: center;">4</div>	
Primary Rule Cite	<div style="border: 1px solid black; padding: 2px;">30 Tex. Admin. Code § 335.112(a)(9); 40 CFR § 265.195(g)</div>	
Secondary Cite(s)	<div style="border: 1px solid black; padding: 2px;"></div>	
Violation Description	<div style="border: 1px solid black; padding: 5px;">Failed to provide documentation for inspections conducted on the tank system. Specifically, there was no documentation to indicate that Respondent conducted any inspections of the in-ground tank and the on-site storage tank #3.</div>	
Base Penalty		<div style="border: 1px solid black; padding: 2px; text-align: right;">\$10,000</div>
» Environmental, Property and Human Health Matrix		
	Harm	
	Major	Moderate
	Minor	
OR	Actual	<div style="border: 1px solid black; padding: 2px;"></div>
	Potential	<div style="border: 1px solid black; padding: 2px;"></div>
	Percent	<div style="border: 1px solid black; padding: 2px;"></div>
» Programmatic Matrix		
	Major	Moderate
	Minor	
OR	<div style="border: 1px solid black; padding: 2px; text-align: center;">x</div>	<div style="border: 1px solid black; padding: 2px;"></div>
	Percent	<div style="border: 1px solid black; padding: 2px; text-align: right;">10%</div>
Matrix Notes	<div style="border: 1px solid black; padding: 5px;">100% of the rule requirement was met.</div>	
Adjustment		<div style="border: 1px solid black; padding: 2px; text-align: right;">-\$9,000</div>
Base Penalty Subtotal		<div style="border: 1px solid black; padding: 2px; text-align: right;">\$1,000</div>
Violation Events		
Number of Violation Events		<div style="border: 1px solid black; padding: 2px; text-align: center;">1</div>
mark only one; use small x	daily	<div style="border: 1px solid black; padding: 2px;"></div>
	monthly	<div style="border: 1px solid black; padding: 2px;"></div>
	quarterly	<div style="border: 1px solid black; padding: 2px;"></div>
	semiannual	<div style="border: 1px solid black; padding: 2px;"></div>
	annual	<div style="border: 1px solid black; padding: 2px;"></div>
	single event	<div style="border: 1px solid black; padding: 2px; text-align: center;">x</div>
Violation Base Penalty		<div style="border: 1px solid black; padding: 2px; text-align: right;">\$1,000</div>
Events Notes	<div style="border: 1px solid black; padding: 5px;">One single event is recommended based on the October 23, 2001 inspection date.</div>	
Economic Benefit (EB) for this violation		Statutory Limit Test
Estimated EB Amount (\$)	<div style="border: 1px solid black; padding: 2px; text-align: right;">\$11</div>	Violation Final Penalty total
		<div style="border: 1px solid black; padding: 2px; text-align: right;">\$1,000</div>
This Violation Final Assessed Penalty (adjusted for limits)		<div style="border: 1px solid black; padding: 2px; text-align: right;">\$1,000</div>

Economic Benefit Worksheet

Respondent Effluent Recycling Inc.

ID Number(s) 34430

Media [Statute] Industrial and Hazardous Waste

Violation Number 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	------------------------------	---------------	------------	-----	----------------	---------------	-----------

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)	\$100	23-Oct-2001	17-Jan-2004	2.2	\$11	n/a	\$11

Notes for DELAYED costs

Estimated cost to conduct inspections of the tank system.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance \$100

TOTAL \$11

Screening Date 04-Jun-02	Docket Number 2007-0619-MLM-E	PCW
Respondent Effluent Recycling Inc.		Policy Revision 2 (09/02)
Case ID No. 34430		PCW Revision 11/15/02
Respondent/Site ID No. RN101569879		
Media [Statute] Industrial and Hazardous Waste		
Enf. Coordinator Terry Murphy		
Violation Number	<div style="border: 1px solid black; padding: 2px; display: inline-block;">5</div>	
Primary Rule Cite	<div style="border: 1px solid black; padding: 2px; display: inline-block;">30 Tex. Admin. Code § 335.4(1)</div>	
Secondary Cite(s)	<div style="border: 1px solid black; padding: 2px; display: inline-block;"></div>	
Violation Description	<div style="border: 1px solid black; padding: 5px;"> <p>Failed to prevent the disposal of industrial solid waste or municipal waste in such a manner to cause the discharge or imminent threat of discharge into or adjacent to the waters in the state without specific authorization. Specifically, there were significant amounts of oils and contaminated water sitting on the earthen floor and tank maintenance waters appeared to have discharged from the open top of frac tank # 1, affecting the tank and the adjacent surface soils within an approximate ten foot radius of the tank.</p> </div>	
Base Penalty		<div style="border: 1px solid black; padding: 2px; display: inline-block;">\$10,000</div>
» Environmental, Property and Human Health Matrix		
	Harm	
	Release	Major Moderate Minor
OR	Actual	<div style="border: 1px solid black; padding: 2px; display: inline-block;"></div> <div style="border: 1px solid black; padding: 2px; display: inline-block;"></div> <div style="border: 1px solid black; padding: 2px; display: inline-block;">x</div>
	Potential	<div style="border: 1px solid black; padding: 2px; display: inline-block;"></div> <div style="border: 1px solid black; padding: 2px; display: inline-block;"></div> <div style="border: 1px solid black; padding: 2px; display: inline-block;"></div>
	Percent	<div style="border: 1px solid black; padding: 2px; display: inline-block;">10%</div>
» Programmatic Matrix		
	Falsification	Major Moderate Minor
OR	<div style="border: 1px solid black; padding: 2px; display: inline-block;"></div>	<div style="border: 1px solid black; padding: 2px; display: inline-block;"></div> <div style="border: 1px solid black; padding: 2px; display: inline-block;"></div> <div style="border: 1px solid black; padding: 2px; display: inline-block;"></div>
	Percent	<div style="border: 1px solid black; padding: 2px; display: inline-block;"></div>
Matrix Notes	<div style="border: 1px solid black; padding: 5px;"> <p>Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or the environment.</p> </div>	
	Adjustment	<div style="border: 1px solid black; padding: 2px; display: inline-block;">-\$9,000</div>
	Base Penalty Subtotal	<div style="border: 1px solid black; padding: 2px; display: inline-block;">\$1,000</div>
Violation Events		
	Number of Violation Events	<div style="border: 1px solid black; padding: 2px; display: inline-block;">3</div>
mark only one; use small x	daily	<div style="border: 1px solid black; padding: 2px; display: inline-block;"></div>
	monthly	<div style="border: 1px solid black; padding: 2px; display: inline-block;"></div>
	quarterly	<div style="border: 1px solid black; padding: 2px; display: inline-block;"></div>
	semiannual	<div style="border: 1px solid black; padding: 2px; display: inline-block;"></div>
	annual	<div style="border: 1px solid black; padding: 2px; display: inline-block;">x</div>
	single event	<div style="border: 1px solid black; padding: 2px; display: inline-block;"></div>
	Violation Base Penalty	<div style="border: 1px solid black; padding: 2px; display: inline-block;">\$3,000</div>
Events Notes	<div style="border: 1px solid black; padding: 5px;"> <p>Three annual events are recommended based on three areas from the period of June 6, 2001 (date of inspection) to June 4, 2002 (date of screening) to make the penalty commensurate with the situation.</p> </div>	
Economic Benefit (EB) for this violation		Statutory Limit Test
Estimated EB Amount (\$)	<div style="border: 1px solid black; padding: 2px; display: inline-block;">\$131</div>	Violation Final Penalty total
		<div style="border: 1px solid black; padding: 2px; display: inline-block;">\$3,000</div>
	This Violation Final Assessed Penalty (adjusted for limits)	<div style="border: 1px solid black; padding: 2px; display: inline-block;">\$3,000</div>

Economic Benefit Worksheet

Respondent Effluent Recycling Inc.
 ID Number(s) 34430
 Media [Statute] Industrial and Hazardous Waste
 Violation Number 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)	\$1,000	6-Jun-2001	17-Jan-2004	2.6	\$131	n/a	\$131

Notes for DELAYED costs

Estimated cost to prevent the disposal of industrial solid waste or municipal waste into or adjacent to the waters in the state.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance \$1,000

TOTAL \$131

Screening Date 04-Jun-02

Docket Number 2007-0619-MLM-E

PCW

Respondent Effluent Recycling Inc.

Policy Revision 2 (09/02)

Case ID No. 34430

PCW Revision 11/15/02

Respondent/Site ID No. RN101569879

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Terry Murphy

Violation Number 6

Primary Rule Cite 30 Tex. Admin. Code § 335.62 and 40 CFR § 262.11

Secondary Cite(s)

Violation Description

Failed to conduct a complete Hazardous Waste Determination for the ground storage tank bottoms, the contents of the four storage tanks, the contaminated soil in the roll off box, the contents of the in ground tank and the contents of the two frac tanks. Samples collected on October 23, 2001 revealed a flash point of <40o F from Frac Tank #1, Frac Tank #2 revealed TCLP benzene of 5.8 mg/L and Storage tank #3 revealed TCLP benzene of 9.6 mg/L. Samples collected on February 19, 2002 revealed that the solids from the in ground tank were 1.5mg/L TCLP benzene and the liquids revealed 0.61 mg/L TCLP benzene.

Base Penalty \$10,000

» Environmental, Property and Human Health Matrix

Harm

Release	Major	Moderate	Minor
Actual			
Potential	X		

Percent 25%

» Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes

Failure to conduct a hazardous waste determination for all waste contained on site will or could expose human health or the environment to pollutants which would exceed levels that are protective of human health or the environment.

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 9

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$22,500

Events Notes

Nine single events are recommended; one event for each waste type generated.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$) \$224

Violation Final Penalty total \$22,500

This Violation Final Assessed Penalty (adjusted for limits) \$22,500

Economic Benefit Worksheet

Respondent Effluent Recycling Inc.

ID Number(s) 34430

Media [Statute] Industrial and Hazardous Waste

Violation Number 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$2,000	23-Oct-2001	17-Jan-2004	2.2	\$224	n/a	\$224
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to conduct Hazardous Waste Determination for all waste at the site.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance \$2,000

TOTAL \$224

Screening Date 04-Jun-02

Docket Number 2007-0619-MLM-E

PCW

Respondent Effluent Recycling Inc.

Policy Revision 2 (09/02)

Case ID No. 34430

PCW Revision 11/15/02

Respondent/Site ID No. RN101569879

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Terry Murphy

Violation Number 7

Primary Rule Cite 30 Tex. Admin. Code §§ 327.3(b) and 327.5(c)

Secondary Cite(s)

Violation Description

Failed to make notifications of reportable discharges or spills into the environment within 24 hours as documented during the initial investigation conducted on June 6, 2001 and follow up investigation conducted February 15, 2002. Specifically, during the June 6, 2001, and February 15, 2002, investigations, the investigator observed large pools of liquids and oily wastes throughout the walled area and significant surface staining throughout the property indicated the occurrence of spills at least since the June 6, 2001, investigation. However, the TCEQ has no records of any notifications of reportable discharges or spills submitted by Respondent.

Base Penalty \$10,000

» Environmental, Property and Human Health Matrix

Harm

Release	Major	Moderate	Minor
OR Actual			
Potential			

Percent

» Programmatic Matrix

Falsification	Major	Moderate	Minor
OR	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 1

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

Events Notes

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$) \$230

Violation Final Penalty total \$1,000

This Violation Final Assessed Penalty (adjusted for limits) \$1,000

Economic Benefit Worksheet

Respondent Effluent Recycling Inc.

ID Number(s) 34430

Media [Statute] Industrial and Hazardous Waste

Violation Number 7

Percent
Interest

5.0

Years of
Depreciation

15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
---------------------	---------------------------------	------------------	---------------	-----	-------------------	------------------	--------------

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)	\$200	6-Jun-2001	17-Jan-2004	3.0	\$30	\$200	\$230

Notes for AVOIDED costs

Estimated cost to report discharges or spills within 24 hours to the TCEQ.

Approx Cost of Compliance \$200

TOTAL

\$230

Screening Date 04-Jun-02		Docket Number 2007-0619-MLM-E		PCW
Respondent Effluent Recycling Inc.				Policy Revision 2 (09/02)
Case ID No. 34430				PCW Revision 11/15/02
Respondent/Site ID No. RN101569879				
Media [Statute] Industrial and Hazardous Waste				
Enf. Coordinator Terry Murphy				
Violation Number 8				
Primary Rule Cite 30 Tex. Admin. Code § 335.112(a)(8); 40 CFR §§ 265.173 and 265.176				
Secondary Cite(s)				
Violation Description Failed to close hazardous waste containers, except when it is necessary to add or remove waste, and failed to maintain containers holding ignitable waste at least 50 feet from the facility property line. Specifically, frac tank #1 and frac tank #2 containing elevated levels of benzene were not properly closed, did not have seals for any type of closure, and were approximately ten feet from the property line at the southwest corner of the property.				
Base Penalty				\$10,000
» Environmental, Property and Human Health Matrix				
Harm				
	Release	Major	Moderate	Minor
OR	Actual			
	Potential		x	
Percent				10%
» Programmatic Matrix				
	Falsification	Major	Moderate	Minor
OR				
Percent				
Matrix Notes	Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or the environment.			
Adjustment				-\$9,000
Base Penalty Subtotal				\$1,000
Violation Events				
Number of Violation Events		6		
<i>mark only one; use small x</i>	daily			
	monthly			
	quarterly			
	semiannual	x		
	annual			
	single event			
Violation Base Penalty				\$6,000
Events Notes	Three semi-annual events are recommended for each tank from the period of October 23, 2001 (date of inspection) to April 6, 2003 (settlement termination date) to make the penalty commensurate with the situation.			
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount (\$) \$224		Violation Final Penalty total \$6,000		
This Violation Final Assessed Penalty (adjusted for limits)				\$6,000

Economic Benefit Worksheet

Respondent Effluent Recycling Inc.
 ID Number(s) 34430
 Media [Statute] Industrial and Hazardous Waste
 Violation Number 8

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)	\$2,000	23-Oct-2001	17-Jan-2004	2.2	\$224	n/a	\$224

Notes for DELAYED costs

Estimated cost to maintain hazardous waste containers.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance \$2,000

TOTAL

\$224



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision June 26, 2007

TCEQ

DATES	Assigned	7-Aug-2007	Screening	14-Aug-2007	EPA Due	
	PCW	7-Feb-2008				

RESPONDENT/FACILITY INFORMATION

Respondent	Effluent Recycling, Inc.		
Reg. Ent. Ref. No.	RN101569879		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	34430	No. of Violations	4
Docket No.	2007-0619-MLM-E	Order Type	1660
Media Program(s)	Used Oil	Enf. Coordinator	Terry Murphy
Multi-Media	Industrial and Hazardous Waste	EC's Team	Enforcement Team 4
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$2,500

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$1,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 0% Enhancement Subtotals 2, 3, & 7 \$0Notes No change due to average performer classification.Culpability No 0% Enhancement Subtotal 4 \$0Notes The Respondent does not meet the culpability criteria.Good Faith Effort to Comply 0% Reduction Subtotal 5 \$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria.

Total EB Amounts	\$692
Approx. Cost of Compliance	\$6,110

0% Enhancement*
*Capped at the Total EB \$ Amount

Subtotal 6 \$0

SUM OF SUBTOTALS 1-7

Final Subtotal \$1,000

OTHER FACTORS AS JUSTICE MAY REQUIRE

 25%Adjustment \$410

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes Recommended adjustment to capture the avoided cost benefit associated with the violations.Final Penalty Amount \$1,410

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$1,410

DEFERRAL

 0%Reduction Adjustment \$0

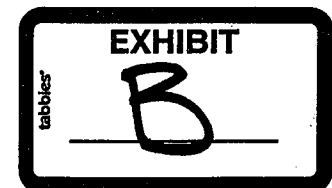
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes Deferral not offered for non-expedited settlement.

PAYABLE PENALTY

 \$1,410

FACILITY 1



Screening Date 14-Aug-2007

Docket No. 2007-0619-MLM-E

PCW

Respondent Effluent Recycling, Inc.

Policy Revision 2 (September 2002)

Case ID No. 34430

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN101569879

Media [Statute] Used Oil

Enf. Coordinator Terry Murphy

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No change due to average performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 14-Aug-2007 Respondent Effluent Recycling, Inc. Case ID No. 34430 Reg. Ent. Reference No. RN101569879 Media [Statute] Used Oil Enf. Coordinator Terry Murphy Violation Number 1	Docket No. 2007-0619-MLM-E PCW <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision June 26, 2007</i>																			
Rule Cite(s) 30 Tex. Admin. Code § 324.22(d)(3)																				
Violation Description Failed to provide secondary containment for all areas where used oil is stored, transferred, or otherwise handled, including, but not limited to, loading docks, parking areas, storage areas, and any areas where shipments of used oil are held for more than 24 hours. Specifically, used oil had been transported to and stored at the Facility without secondary containment.																				
Base Penalty \$2,500																				
>> Environmental, Property and Human Health Matrix																				
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: left;">Release</th> <th colspan="3" style="text-align: center;">Harm</th> <th rowspan="3" style="vertical-align: bottom;">Percent</th> </tr> <tr> <th></th> <th style="text-align: center;">Major</th> <th style="text-align: center;">Moderate</th> <th style="text-align: center;">Minor</th> </tr> <tr> <td>Actual</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Potential</td> <td></td> <td style="text-align: center;">x</td> <td></td> <td></td> <td style="text-align: center;">10%</td> </tr> </table>	Release	Harm			Percent		Major	Moderate	Minor	Actual				Potential		x			10%
	Release	Harm			Percent															
		Major	Moderate	Minor																
Actual																				
Potential		x			10%															
>> Programmatic Matrix																				
Matrix Notes	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: left;">Falsification</th> <th style="text-align: center;">Major</th> <th style="text-align: center;">Moderate</th> <th style="text-align: center;">Minor</th> <th rowspan="2" style="vertical-align: bottom;">Percent</th> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td style="text-align: center;">0%</td> </tr> </table>	Falsification	Major	Moderate	Minor	Percent					0%									
	Falsification	Major	Moderate	Minor	Percent															
				0%																
Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed protective levels as a result of the violation.																				
Adjustment \$2,250																				
\$250																				
Violation Events																				
Number of Violation Events 1 12 Number of violation days																				
mark only one with an x	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">daily</td> <td></td> </tr> <tr> <td style="text-align: center;">monthly</td> <td style="text-align: center;">x</td> </tr> <tr> <td style="text-align: center;">quarterly</td> <td></td> </tr> <tr> <td style="text-align: center;">semiannual</td> <td></td> </tr> <tr> <td style="text-align: center;">annual</td> <td></td> </tr> <tr> <td style="text-align: center;">single event</td> <td></td> </tr> </table>	daily		monthly	x	quarterly		semiannual		annual		single event		Violation Base Penalty \$250						
	daily																			
	monthly	x																		
	quarterly																			
	semiannual																			
	annual																			
single event																				
One quarterly event is recommended from the August 2, 2007 record review date to the August 14, 2007 screening date.																				
Economic Benefit (EB) for this violation																				
Statutory Limit Test																				
Estimated EB Amount \$228	Violation Final Penalty Total \$353																			
This violation Final Assessed Penalty (adjusted for limits) \$353																				

Economic Benefit Worksheet

Respondent Effluent Recycling, Inc.

Case ID No. 34430

Reg. Ent. Reference No. RN101569879

Media Used Oil

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$5,000	2-Aug-2007	30-Jun-2008	0.9	\$228	n/a	\$228

Notes for DELAYED costs

Estimated cost to equip site with secondary containment on containers and tanks from the record review date to the estimated date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$228

Screening Date 14-Aug-2007

Docket No. 2007-0619-MLM-E

PCW

Respondent Effluent Recycling, Inc.

Policy Revision 2 (September 2002)

Case ID No. 34430

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN101569879

Media [Statute] Used Oil

Enf. Coordinator Terry Murphy

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 324.11(2) and 324.4(2)(C)(i)

Violation Description

Failed to have registration for transporting and storing Used Oil. Specifically, approximately 200 55-gallon drums containing used oil had been stored on site for approximately three calendar years.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$2,250

\$250

Violation Events

Number of Violation Events 1

12 Number of violation days

mark only one
with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$250

One quarterly event is recommended from the August 2, 2007 record review date to the August 14, 2007 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$24

Violation Final Penalty Total \$353

This violation Final Assessed Penalty (adjusted for limits) \$353

Economic Benefit Worksheet

Respondent Effluent Recycling, Inc.

Case ID No. 34430

Reg. Ent. Reference No. RN101569879

Media Used Oil

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$500	2-Aug-2007	15-Jul-2008	1.0	\$24	n/a	\$24
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain proper registration. The Date Required is the record review date and the Final Date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$24

Screening Date 14-Aug-2007		Docket No. 2007-0619-MLM-E		PCW	
Respondent Effluent Recycling, Inc.		<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 34430		<i>PCW Revision June 26, 2007</i>			
Reg. Ent. Reference No. RN101569879					
Media [Statute] Used Oil					
Enf. Coordinator Terry Murphy					
Violation Number		<input type="text" value="3"/>			
Rule Cite(s)		<input type="text" value="30 Tex. Admin. Code §§ 37.2011 and 324.22(b),(c), and (e)"/>			
Violation Description		<input type="text" value="Failed to establish and maintain financial assurance for soil remediation. Specifically, the Respondent did not have financial assurance at the time of the investigation."/>			
Base Penalty					<input type="text" value="\$2,500"/>

>> Environmental, Property and Human Health Matrix

	Harm				
		Major	Moderate	Minor	
OR	Release				
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Percent					<input type="text" value="0%"/>

>> Programmatic Matrix

	Falsification				
		Major	Moderate	Minor	
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Percent					<input type="text" value="10%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events	<input type="text" value="1"/>			Number of violation days	<input type="text" value="12"/>
<i>mark only one with an x</i>	daily	<input type="text"/>			
	monthly	<input type="text"/>			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input checked="" type="text" value="x"/>			
One single event is recommended.					

Violation Base Penalty

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$431"/>	Violation Final Penalty Total <input type="text" value="\$353"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$353"/>	

Economic Benefit Worksheet

Respondent Effluent Recycling, Inc.

Case ID No. 34430

Reg. Ent. Reference No. RN101569879

Media Used Oil

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]	\$410	2-Aug-2006	2-Aug-2007	1.0	\$21	\$410	\$431
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to obtain proper Financial Assurance for soil remediation. The Date Required is one year prior to the record review date which is the end date of the violation.

Approx. Cost of Compliance

\$410

TOTAL

\$431

Screening Date 14-Aug-2007

Docket No. 2007-0619-MLM-E

PCW

Respondent Effluent Recycling, Inc.

Policy Revision 2 (September 2002)

Case ID No. 34430

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN101569879

Media [Statute] Used Oil

Enf. Coordinator Terry Murphy

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code §§ 324.4(1)

Violation Description Failed to prevent the discharge of used oil from tanks and containers to surface soils. Specifically, used oil and/or hydraulic fluid from an industrial compressor on the property was noted to have discharged to approximately 25 square feet of soil.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants which do not exceed protective levels as a result of the violation.

Adjustment \$2,250

\$250

Violation Events

Number of Violation Events 1

12 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$250

One quarterly event is recommended from the August 2, 2007 record review date to the August 14, 2007 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$10

Violation Final Penalty Total \$353

This violation Final Assessed Penalty (adjusted for limits) \$353

Economic Benefit Worksheet

Respondent Effluent Recycling, Inc.

Case ID No. 34430

Reg. Ent. Reference No. RN101569879

Media Used Oil

Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$200	2-Aug-2007	31-Jul-2008	1.0	\$10	n/a	\$10
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to dispose of contaminated soil at an authorized facility, based on \$100/cubic yard and approximately 2 cubic yards of contaminated soil. The Date Required is the record review date and the Final Date is the expected date of compliance.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$10



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision June 26, 2007

TCEQ

DATES	Assigned	7-Aug-2007	Screening	14-Aug-2007	EPA Due	
	PCW	7-Feb-2008				

RESPONDENT/FACILITY INFORMATION

Respondent	Effluent Recycling, Inc.		
Reg. Ent. Ref. No.	RN101569879		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	34430	No. of Violations	4
Docket No.	2007-0619-MLM-E	Order Type	1660
Media Program(s)	Industrial and Hazardous Waste	Enf. Coordinator	Terry Murphy
Multi-Media	Petroleum Storage Tank	EC's Team	Enforcement Team 4
Admin. Penalty \$	Limit Minimum	\$0	Maximum
		\$10,000	

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$12,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 0% Enhancement Subtotals 2, 3, & 7 \$0

Notes No change due to average performer classification.

Culpability No 0% Enhancement Subtotal 4 \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction Subtotal 5 \$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria.

Total EB Amounts	\$3,471	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$66,000	*Capped at the Total EB \$ Amount		

SUM OF SUBTOTALS 1-7 Final Subtotal \$12,500

OTHER FACTORS AS JUSTICE MAY REQUIRE

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Adjustment \$0

Notes

Final Penalty Amount \$12,500

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$12,500

DEFERRAL

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

0% Reduction Adjustment \$0

Notes

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY \$12,500

FACILITY 1

EXHIBIT

tabbies

C

Screening Date 14-Aug-2007

Docket No. 2007-0619-MLM-E

PCW

Respondent Effluent Recycling, Inc.

Policy Revision 2 (September 2002)

Case ID No. 34430

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN101569879

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Terry Murphy

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No change due to average performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 14-Aug-2007		Docket No. 2007-0619-MLM-E		PCW	
Respondent Effluent Recycling, Inc.				<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 34430				<i>PCW Revision June 26, 2007</i>	
Reg. Ent. Reference No. RN101569879					
Media [Statute] Industrial and Hazardous Waste					
Enf. Coordinator Terry Murphy					
Violation Number		<div style="border: 1px solid black; padding: 2px; text-align: center;">1</div>			
Rule Cite(s)		<div style="border: 1px solid black; padding: 2px; text-align: center;">30 Tex. Admin. Code § 334.47(a)(2)</div>			
Violation Description		<div style="border: 1px solid black; padding: 5px;">Failed to permanently remove an existing UST system from service or bring the tank system into timely compliance with upgrade requirements. Specifically, the Respondent failed to remove or bring into compliance a registered, out-of-service UST at the facility.</div>			
Base Penalty					<div style="border: 1px solid black; padding: 2px; text-align: center;">\$10,000</div>

>> Environmental, Property and Human Health Matrix

OR	Harm				Percent <div style="border: 1px solid black; padding: 2px; text-align: center;">25%</div>
	Release	Major	Moderate	Minor	
	Actual				
	Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent <div style="border: 1px solid black; padding: 2px; text-align: center;">0%</div>

Matrix Notes Human health or the environment will or could be exposed to pollutants which would exceed protective levels as a result of the violation.

Adjustment

\$7,500

Violation Events

Number of Violation Events <div style="border: 1px solid black; padding: 2px; text-align: center;">1</div>	Number of violation days <div style="border: 1px solid black; padding: 2px; text-align: center;">12</div>
---	--

<i>mark only one with an x</i>	daily		Violation Base Penalty <div style="border: 1px solid black; padding: 2px; text-align: center;">\$2,500</div>
	monthly	x	
	quarterly		
	semiannual		
	annual		
	single event		

One monthly event is recommended from the August 2, 2007 record review date to the August 14, 2007 screening date.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <div style="border: 1px solid black; padding: 2px; text-align: center;">\$499</div>	Violation Final Penalty Total <div style="border: 1px solid black; padding: 2px; text-align: center;">\$2,500</div>
This violation Final Assessed Penalty (adjusted for limits) <div style="border: 1px solid black; padding: 2px; text-align: center;">\$2,500</div>	

Economic Benefit Worksheet

Respondent Effluent Recycling, Inc.

Case ID No. 34430

Reg. Ent. Reference No. RN101569879

Media Industrial and Hazardous Waste

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$10,000	2-Aug-2007	31-Jul-2008	1.0	\$499	n/a	\$499
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to bring existing UST into compliance or completely remove it from the site. The Date Required is the record review date and the Final Date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$499

Screening Date 14-Aug-2007

Docket No. 2007-0619-MLM-E

PCW

Respondent Effluent Recycling, Inc.

Policy Revision 2 (September 2002)

Case ID No. 34430

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN101569879

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Terry Murphy

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 335.4(1)

Violation Description

Failed to prevent the discharge of wastes from tanks and containers to surface soils. Specifically, discharges of dye waste mixed with used oil, petroleum products and/or other wastes and absorbents were observed on approximately 14,000 square feet of soil at the facility.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual		x	
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants which do not exceed protective levels as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

12

Number of violation days

mark only one with an x	daily	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

One monthly event is recommended from the August 2, 2007 record review date to the August 14, 2007 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2,699

Violation Final Penalty Total \$2,500

This violation Final Assessed Penalty (adjusted for limits) \$2,500

Economic Benefit Worksheet

Respondent Effluent Recycling, Inc.

Case ID No. 34430

Reg. Ent. Reference No. RN101569879

Media Industrial and Hazardous Waste

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$50,000	2-Aug-2007	30-Aug-2008	1.1	\$2,699	n/a	\$2,699
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to dispose contaminated soil at an authorized facility, based on \$100/cubic yard and approximately 500 cubic yards of contaminated soil. The Date Required is the record review date and the Final Date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$50,000

TOTAL

\$2,699

Screening Date 14-Aug-2007

Docket No. 2007-0619-MLM-E

PCW

Respondent Effluent Recycling, Inc.

Policy Revision 2 (September 2002)

Case ID No. 34430

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN101569879

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Terry Murphy

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 335.69(a)(1)(B) and 40 Code of Fed. Regulations § 265.190

Violation Description

Failed to limit storage of hazardous waste to 90 days or less and to prevent the accumulation and/or storage of hazardous waste in tanks without adequate secondary containment, integrity assessment, and recordkeeping. Specifically, samples of the wastes collected from Frac Tanks 1 and 2 and Storage Tank 3 indicated the wastes were characteristically hazardous for Benzene (D018), and had been stored for approximately three years. In addition, hazardous wastes (Benzene D018) had been stored in three tanks (two stationary "frac" tanks and one tank inside a concrete walled area in the central portion of the property) for approximately three calendar years without secondary containment, integrity assessment, and recordkeeping, which is required under the provisions of 40 Code of Federal Regulations 265 Subchapter J.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed protective levels.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

12 Number of violation days

mark only one with an x	daily	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

One monthly event is recommended from the August 2, 2007 record review date to the August 14, 2007 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$228

Violation Final Penalty Total \$2,500

This violation Final Assessed Penalty (adjusted for limits) \$2,500

Economic Benefit Worksheet

Respondent Effluent Recycling, Inc.

Case ID No. 34430

Reg. Ent. Reference No. RN101569879

Media Industrial and Hazardous Waste

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	------------------------------	---------------	------------	-----	----------------	---------------	-----------

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$5,000	2-Aug-2007	30-Jun-2008	0.9	\$228	n/a	\$228
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to develop and implement procedures to ensure compliance with 90 day accumulation time limit for storing hazardous waste. The Date Required is the record review date and the Final Date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$228

Screening Date 14-Aug-2007

Docket No. 2007-0619-MLM-E

PCW

Respondent Effluent Recycling, Inc.

Policy Revision 2 (September 2002)

Case ID No. 34430

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN101569879

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Terry Murphy

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 335.62 and Code of Fed. Regulations § 262.11

Violation Description

Failed to conduct an appropriate hazardous waste determination on wastes generated at the site. Specifically, analysis of a sample from a drum of unknown waste located along the north fence line exhibited toxicity characteristic for Chromium (D007). In addition, no waste determination had been conducted on the contents of a 6,000 gallon poly-plastic tank.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would exceed protective levels as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2

12

Number of violation days

mark only one
with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$5,000

Two single events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$46

Violation Final Penalty Total \$5,000

This violation Final Assessed Penalty (adjusted for limits) \$5,000

Economic Benefit Worksheet

Respondent Effluent Recycling, Inc.

Case ID No. 34430

Reg. Ent. Reference No. RN101569879

Media Industrial and Hazardous Waste
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,000	2-Aug-2007	30-Jun-2008	0.9	\$46	n/a	\$46

Notes for DELAYED costs

Estimated cost to conduct a hazardous waste determination. Date required is the date of the record review and Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$46

Compliance History

Customer/Respondent/Owner-Operator: CN601403488 Effluent Recycling, Inc. Classification: AVERAGE Rating: 1.50
 Regulated Entity: RN101569879 MICHAEL MARTIN & ASSOCIATES Classification: AVERAGE BY Site Rating: 3.01
 ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 37305
 INDUSTRIAL AND HAZARDOUS WASTE ID NUMBER F1232
 NONPERMITTED
 Location: 1010 BENJAMIN ST, FORT WORTH, TX, 76164 Rating Date: September 01 06 Repeat Violator:
 NO
 TCEQ Region: REGION 04 - DFW METROPLEX
 Date Compliance History Prepared: August 21, 2007
 Agency Decision Requiring Compliance Enforcement
 Compliance Period: August 21, 2002 to August 21, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Clinton Sims Phone: (512) 239-6933

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 03/23/2007 (539386)

N/A

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

- F. Environmental audits.

N/A

- G. Type of environmental management systems (EMSs).

N/A

- H. Voluntary on-site compliance assessment dates.

N/A

- I. Participation in a voluntary pollution reduction program.

N/A

- J. Early compliance.

N/A

Sites Outside of Texas

N/A

FACILITY 1



Penalty Calculation Worksheet (PCW)

DATES	
PCW 16-Dec-2003	Screening 19-Dec-2003
Priority Due 17-Apr-2004	EPA Due
RESPONDENT INFORMATION	
Respondent Effluent Recycling Inc	
Respondent/Site ID No(s) Used Oil Registration No. C87376; RN102755089	
Facility/Site Region 3 - Abilene	Major/Minor Source Minor
CASE INFORMATION	
Enf./Case ID No(s) 34430	No. Violations 1
Docket No. 2007-0619-MLM-E	Order Type 1660 with deferral
Case Priority 3	EC's Team Team 4
Enf. Coordinator Terry Murphy	
Media Program(s) Industrial and Hazardous Waste	
Admin. Penalty \$ Limit Minimum \$0	Maximum \$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)		Subtotal 1	\$1,000
ADJUSTMENTS (+/-) TO SUBTOTAL 1			
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.			
Compliance History	0% Enhancement	Subtotals 2, 3 & 7	\$0
Notes	No adjustments are recommended based on Average Performer classification.		+
Culpability	0% Enhancement	Subtotal 4	\$0
No	Select Yes/No		
Notes	The Respondent does not meet the culpability criteria.		+
Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
Before NOV	NOV to EDPRP/Settlement Offer		
Extraordinary			
Ordinary			
None of the above	X (mark with small x)		
Notes	The Respondent does not meet the good faith effort criteria.		+
Economic Benefit	0% Enhancement*	Subtotal 6	\$0
\$220	Total EB Amounts		
\$200	Approx. Cost of Compliance		
	*Capped at the Total EB \$ Amount		=
SUM OF SUBTOTALS 1-7		Final Subtotal	\$1,000
OTHER FACTORS AS JUSTICE MAY REQUIRE		Adjustment	\$0
Reduces or enhances the Final Subtotal by the indicated percentage. (enter number only; e.g. -30 for -30%)			
Notes			=
		Final Penalty Amount	\$1,000
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty	\$1,000
DEFERRAL		Deferral	Reduction
Reduces the Final Assessed Penalty by the indicated percentage. (enter number only; e.g. 20 for 20% reduction)		Adjustment	\$0
Notes	No deferral is recommended because settlement was not achieved through the expedited process.		=
PAYABLE PENALTY			\$1,000

FACILITY 2



Screening Date 19-Dec-2003

Docket Number 2007-0619-MLM-E

PCW

Respondent Effluent Recycling Inc

Policy Revision 2 (09/02)

Case ID No. 34430

PCW Revision 6/12/2003

Respondent/Site ID No. Used Oil Registration No. C87376; RN102755089

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Terry Murphy

Site Address 1117 South Commerce, Eastland County

Compliance History Worksheet

>>

Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)		0%
	Other written NOVs		0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)		0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission		0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)		0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government		0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)		0%
Emissions	Chronic excessive emissions events (number of events)		0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)		0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)		0%
Please enter Yes or No			
Other	Environmental management systems in place for one year or more		0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program		0%
	Participation in a voluntary pollution reduction program		0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements		0%

Adjustment Percentage (Subtotal 2) 0%

>>

Repeat Violator (Subtotal 3)

No ☐ Select Yes/No

Adjustment Percentage (Subtotal 3) 0%

>>

Compliance History Person Classification (Subtotal 7)

Average Performer ☐ Select High, Average or Poor

Adjustment Percentage (Subtotal 7) 0%

Compliance History Summary

Compliance
History
Notes

No adjustments are recommended based on Average Performer classification.

Total Adjustment Percentage (Subtotals 2, 3 & 7) 0%

Screening Date 19-Dec-03

Docket Number 2007-0619-MLM-E

PCW

Respondent Effluent Recycling Inc

Policy Revision 2 (09/02)

Case ID No. 34430

PCW Revision 6/12/2003

Respondent/Site ID No. Used Oil Registration No. C87376; RN102755089

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Terry Murphy

Violation Number 1

Primary Rule Cite 30 Tex. Admin. Code §§ 335.5 and 335.6(a)

Secondary Cite(s)

Violation Description

Failure to deed record, and failure to comply with written or electronic notification requirements for the disposal of industrial solid waste at the Facility.

Base Penalty \$10,000

» Environmental, Property and Human Health Matrix

Harm

Release Major Moderate Minor

OR

Actual
Potential

Percent

» Programmatic Matrix

Falsification Major Moderate Minor

OR

x

Percent 10%

Matrix
Notes

100% of the rule requirement was not met.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 1

mark only one; use small x

daily
monthly
quarterly
semiannual
annual
single event x

Violation Base Penalty \$1,000

Events
Notes

One single event is recommended based on documentation of the violation during the April 16, 2003, investigation date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$) \$220

Violation Final Penalty total \$1,000

This Violation Final Assessed Penalty (adjusted for limits) \$1,000

Economic Benefit Worksheet

Respondent Effluent Recycling Inc
 ID Number(s) 34430
 Media [Statute] Industrial and Hazardous Waste
 Violation Number 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	------------------------------	---------------	------------	-----	----------------	---------------	-----------

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)	\$200	16-Apr-2003	18-Jun-2004	2.0	\$20	\$200	\$220

Notes for AVOIDED costs

Estimated cost to deed recored, and notify the Executive Director of industrial solid waste disposal activities.

Approx Cost of Compliance \$200

TOTAL \$220

Penalty Calculation Worksheet (PCW)	
	PCW Revision 6/12/2003
Policy Revision 2 (09/02)	
DATES	
PCW 16-Dec-2003	Screening 19-Dec-2003
Priority Due 17-Feb-2004	EPA Due
RESPONDENT INFORMATION	
Respondent Effluent Recycling Inc	
Respondent/Site ID No(s) Used Oil Registration No. C87376; RN102755089	
Facility/Site Region 3 - Abilene	Major/Minor Source Minor
CASE INFORMATION	
Enf./Case ID No(s) 34430	No. Violations 4
Docket No. 2007-0619-MLM-E	Order Type 1660 without deferral
Case Priority 2	EC's Team Team 4
Enf. Coordinator Terry Murphy	
Media Program(s) Used Oil	
Admin. Penalty \$ Limit	Minimum \$0 Maximum \$2,500

Penalty Calculation Section			
TOTAL BASE PENALTY (<i>Sum of violation base penalties</i>)		Subtotal 1	\$12,250
ADJUSTMENTS (+/-) TO SUBTOTAL 1			
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>			
Compliance History	0% Enhancement	Subtotals 2, 3 & 7	\$0
Notes	No adjustments are recommended due to Average Performer classification.		+
Culpability	0% Enhancement	Subtotal 4	\$0
No <input type="checkbox"/> <small>Select Yes/No</small>			
Notes	The Respondent does not meet the culpability criteria.		+
Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
Before NOV	NOV to EDPRP/Settlement Offer		
Extraordinary			
Ordinary			
None of the above	X (mark with small x)		+
Notes	The Respondent does not meet the good faith effort criteria.		
Economic Benefit	0% Enhancement*	Subtotal 6	\$0
\$437 Total EB Amounts	*Capped at the Total EB \$ Amount		=
\$7,500 Approx. Cost of Compliance			=
SUM OF SUBTOTALS 1-7		Final Subtotal	\$12,250
OTHER FACTORS AS JUSTICE MAY REQUIRE		Adjustment	\$0
<small>Reduces or enhances the Final Subtotal by the indicated percentage. (enter number only; e.g. -30 for -30%)</small>			=
Notes			
		Final Penalty Amount	\$12,250
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty	\$12,250
DEFERRAL		Adjustment	\$0
<small>Reduces the Final Assessed Penalty by the indicated percentage. (enter number only; e.g. 20 for 20% reduction)</small>			=
Notes	No deferral recommended because settlement was not achieved through the expedited process.		
PAYABLE PENALTY			\$12,250

FACILITY 2



Surrendering Date	19-Dec-2003	Docket Number	2007-0619-MLM-E
Respondent	Effluent Recycling Inc	Policy Revision 2 (09/02)	
Case ID No.	34430	PCW Revision 6/12/2003	
Respondent/Site ID No.	Used Oil Registration No. C87376; RN102755089		
Media [Statute]	Used Oil		
Enf. Coordinator	Terry Murphy		
Site Address	1117 South Commerce, Eastland County		

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No ☐ Select Yes/No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer ☐ Select High, Average or Poor

Adjustment Percentage (Subtotal 7) 0%

Compliance History Summary

Compliance
History
Notes

No adjustments are recommended due to Average Performer classification.

Total Adjustment Percentage (Subtotals 2, 3 & 7) 0%

Screening Date 19-Dec-03	Docket Number 2007-0619-MLM-E	PCW
Respondent Effluent Recycling Inc		Policy Revision 2 (09/02)
Case ID No. 34430		PCW Revision 6/12/2003
Respondent/Site ID No. Used Oil Registration No. C87376; RN102755089		
Media [Statute] Used Oil		
Enf. Coordinator Terry Murphy		
Violation Number 1		
Primary Rule Cite	30 Tex. Admin. Code § 324.4 and 40 CFR § 279.12(a)	
Secondary Cite(s)	Tex. Water Code § 26.121	
Violation Description	Failure to manage used oil in such a manner that does not endanger the welfare of the environment. Used oil shall not be managed in surface impoundments unless subject to 40 CFR Part 264 or 265. Specifically, the discharge of volatile organics, total petroleum hydrocarbons, and metals have impacted the soil.	

Base Penalty \$2,500

» Environmental, Property and Human Health Matrix

		Harm			
	Release	Major	Moderate	Minor	
OR	Actual		x		
	Potential				
					Percent 25%

» Programmatic Matrix

	Falsification	Major	Moderate	Minor	
OR					
					Percent

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants. Soil samples collected at the above ground storage tank area and the surface impoundment indicate the presence of lead, Benzene, Ethylbenzene, tert-Butyl Methyl Ether, Toluene, Xylenes and Petroleum Hydrocarbons.

Adjustment -\$1,875

Base Penalty Subtotal \$625

Violation Events

Number of Violation Events 9

mark only one; use small x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$5,625

Events Notes

Nine monthly events are recommended based upon documentation of the violation during the April 16, 2003, investigation date, to the December 19, 2003, screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$) \$287

Violation Final Penalty total \$5,625

This Violation Final Assessed Penalty (adjusted for limits) \$5,625

Economic Benefit Worksheet

Respondent Effluent Recycling Inc

ID Number(s) 34430

Media [Statute] Used Oil

Violation Number 1

Percent
InterestYears of
Depreciation

5.0

15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest - Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$5,000	16-Apr-2003	8-Jun-2004	1.1	\$287	n/a	\$287
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to properly remediate and dispose of contaminated soil.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance \$5,000

TOTAL

\$287

Screening Date 19-Dec-03		Docket Number 2007-0619-MLM-E		PCW	
Respondent Effluent Recycling Inc				Policy Revision 2 (09/02)	
Case ID No. 34430				PCW Revision 6/12/2003	
Respondent/Site ID No. Used Oil Registration No. C87376; RN102755089					
Media [Statute] Used Oil					
Enf. Coordinator Terry Murphy					
Violation Number		<div style="border: 1px solid black; text-align: center;">2</div>			
Primary Rule Cite		<div style="border: 1px solid black; text-align: center;">30 Tex. Admin. Code § 324.6 and 40 CFR § 279.22</div>			
Secondary Cite(s)		<div style="border: 1px solid black; text-align: center;"> </div>			
Violation Description		<div style="border: 1px solid black; padding: 5px;">Failure to maintain six 12,000 gallon ("gal") used oil storage tanks in good condition with no visible leaks, and labeled or marked clearly with the words "Used Oil". Specifically, the investigation documented staining of the ground was evident from two leaking valves that are connected to two of the 12,000 gal tanks, and photos indicate no labeling of tanks.</div>			
				Base Penalty	<div style="border: 1px solid black;">\$2,500</div>
» Environmental, Property and Human Health Matrix					
Harm					
	Release	Major	Moderate	Minor	
OR	Actual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	x	
	Potential	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	
				Percent	<div style="border: 1px solid black;">10%</div>
» Programmatic Matrix					
	Falsification	Major	Moderate	Minor	
OR	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	
				Percent	<div style="border: 1px solid black;"></div>
Matrix Notes	<div style="border: 1px solid black; padding: 5px;">Human health and the environment has been exposed to insignificant amounts of pollutants which did not exceed levels that are protective of human health or environmental receptors.</div>				
				Adjustment	<div style="border: 1px solid black;">-\$2,250</div>
				Base Penalty Subtotal	<div style="border: 1px solid black;">\$250</div>
Violation Events					
Number of Violation Events		<div style="border: 1px solid black; text-align: center;">3</div>			
<i>mark only one; use small x</i>	daily	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>			
	monthly	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>			
	quarterly	x			
	semiannual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>			
	annual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>			
	single event	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>			
				Violation Base Penalty	<div style="border: 1px solid black;">\$750</div>
Events Notes	<div style="border: 1px solid black; padding: 5px;">Three quarterly events are recommended based upon documentation of the violation during the April 16, 2003, investigation date to the December 19, 2003, screening date.</div>				
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount (\$)		<div style="border: 1px solid black;">\$24</div>		Violation Final Penalty total	
				<div style="border: 1px solid black;">\$750</div>	
This Violation Final Assessed Penalty (adjusted for limits)				<div style="border: 1px solid black;">\$750</div>	

Economic Benefit Worksheet

Respondent Effluent Recycling Inc

ID Number(s) 34430

Media [Statute] Used Oil

Violation Number 2

Percent
Interest

5.0

Years of
Depreciation

15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment	\$300	16-Apr-2003	8-Jun-2004	1.1	\$1	\$23	\$24
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to repair or replace the leaking valves and label used oil storage tanks.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance \$300

TOTAL

\$24

Screening Date 19-Dec-03	Docket Number 2007-0619-MLM-E	PCW
Respondent Effluent Recycling Inc		Policy Revision 2 (09/02)
Case ID No. 34430		PCW Revision 6/12/2003
Respondent/Site ID No. Used Oil Registration No. C87376; RN102755089		
Media [Statute] Used Oil		
Enf. Coordinator Terry Murphy		
Violation Number	<div style="border: 1px solid black; padding: 2px; text-align: center;">3</div>	
Primary Rule Cite	<div style="border: 1px solid black; padding: 2px;">30 Tex. Admin. Code § 324.1 and 40 CFR §§ 279.44(a) and 279.53(a)</div>	
Secondary Cite(s)	<div style="border: 1px solid black; padding: 2px;">30 Tex. Admin. Code § 324.12(3) and 40 CFR § 279.57</div>	
Violation Description	<div style="border: 1px solid black; padding: 5px;">Failure to provide documentation to meet the rebuttable presumption for used oil as a transporter and processor/re-refiner under the rebuttable presumption of 40 CFR § 279.10(b)(1)(ii), and failure to meet operating record requirements for not having a facility analysis plan.</div>	
Base Penalty		<div style="border: 1px solid black; padding: 2px; text-align: right;">\$2,500</div>
» Environmental, Property and Human Health Matrix		
Harm		
	Release	Major Moderate Minor
OR	Actual	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>
	Potential	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>
		Percent <div style="border: 1px solid black; width: 100px; height: 20px;"></div>
» Programmatic Matrix		
	Falsification	Major Moderate Minor
OR		<div style="border: 1px solid black; width: 100px; height: 20px; text-align: center;">x</div>
		<div style="border: 1px solid black; width: 100px; height: 20px;"></div>
		Percent <div style="border: 1px solid black; padding: 2px;">10%</div>
Matrix Notes	<div style="border: 1px solid black; padding: 5px;">100% of the rule requirements were not met.</div>	
Adjustment		<div style="border: 1px solid black; padding: 2px; text-align: right;">-\$2,250</div>
Base Penalty Subtotal		<div style="border: 1px solid black; padding: 2px; text-align: right;">\$250</div>
Violation Events		
Number of Violation Events <div style="border: 1px solid black; padding: 2px; text-align: center;">1</div>		
mark only one; use small x	daily	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>
	monthly	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>
	quarterly	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>
	semiannual	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>
	annual	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>
	single event	<div style="border: 1px solid black; width: 100px; height: 20px; text-align: center;">x</div>
		Violation Base Penalty <div style="border: 1px solid black; padding: 2px; text-align: right;">\$250</div>
Events Notes	<div style="border: 1px solid black; padding: 5px;">One single event is recommended based on documentation of the violation during the April 16, 2003, investigation date.</div>	
Economic Benefit (EB) for this violation		Statutory Limit Test
Estimated EB Amount (\$) <div style="border: 1px solid black; padding: 2px;">\$11</div>		Violation Final Penalty total <div style="border: 1px solid black; padding: 2px; text-align: right;">\$250</div>
This Violation Final Assessed Penalty (adjusted for limits)		<div style="border: 1px solid black; padding: 2px; text-align: right;">\$250</div>

Economic Benefit Worksheet

Respondent Effluent Recycling Inc
 ID Number(s) 34430
 Media [Statute] Used Oil
 Violation Number 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$200	16-Apr-2003	8-Jun-2004	1.1	\$11	n/a	\$11
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain records to demonstrate that the total halogen content of used oil being transported processed/re-refined is above or below 1,000 parts per million.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance \$200

TOTAL \$11

Screening Date 19-Dec-03	Docket Number 2007-0619-MLM-E	PCW
Respondent Effluent Recycling Inc		Policy Revision 2 (09/02)
Case ID No. 34430		PCW Revision 6/12/2003
Respondent/Site ID No. Used Oil Registration No. C87376; RN102755089		
Media [Statute] Used Oil		
Enf. Coordinator Terry Murphy		
Violation Number	<div style="border: 1px solid black; text-align: center;">4</div>	
Primary Rule Cite	<div style="border: 1px solid black; text-align: center;">30 Tex. Admin. Code § 324.12 and 40 CFR § 279.52</div>	
Secondary Cite(s)	<div style="border: 1px solid black; height: 20px;"></div>	
Violation Description	<div style="border: 1px solid black; padding: 5px;">Failure to maintain and operate the facility to minimize the possibility of a fire or explosion. Specifically, the facility failed to provide the following; an alarm system capable of providing emergency instructions (voice or signal), a proper number of functional fire extinguishers, adequate volume of water to suppress any possible fires, isle space for the container storage areas, and to make arrangements to familiarize local authorities with the layout of the facility.</div>	
Base Penalty		<div style="border: 1px solid black; text-align: right;">\$2,500</div>
» Environmental, Property and Human Health Matrix		
	Harm	
	Release	Major Moderate Minor
OR	Actual	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>
	Potential	<div style="border: 1px solid black; width: 100px; height: 20px; text-align: center;">x</div>
	Percent	<div style="border: 1px solid black; text-align: right;">25%</div>
» Programmatic Matrix		
	Falsification	Major Moderate Minor
OR	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>
	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>
	Percent	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>
Matrix Notes	<div style="border: 1px solid black; padding: 5px;">Human health and the environment could be exposed to significant amounts of pollutants which could exceed levels that are protective of human health or environmental receptors.</div>	
Adjustment		<div style="border: 1px solid black; text-align: right;">-\$1,875</div>
Base Penalty Subtotal		<div style="border: 1px solid black; text-align: right;">\$625</div>
Violation Events		
Number of Violation Events		<div style="border: 1px solid black; text-align: center;">9</div>
<i>mark only one; use small x</i>	daily	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>
	monthly	<div style="border: 1px solid black; width: 100px; height: 20px; text-align: center;">x</div>
	quarterly	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>
	semiannual	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>
	annual	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>
	single event	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>
	Violation Base Penalty	<div style="border: 1px solid black; text-align: right;">\$5,625</div>
Events Notes	<div style="border: 1px solid black; padding: 5px;">Nine monthly events are recommended based on documentation of the violation during the April 16, 2003, investigation date to the December 19, 2003, screening date.</div>	
Economic Benefit (EB) for this violation		Statutory Limit Test
Estimated EB Amount (\$)	<div style="border: 1px solid black; text-align: right;">\$115</div>	Violation Final Penalty total
		<div style="border: 1px solid black; text-align: right;">\$5,625</div>
This Violation Final Assessed Penalty (adjusted for limits)		<div style="border: 1px solid black; text-align: right;">\$5,625</div>

Economic Benefit Worksheet

Respondent Effluent Recycling Inc

ID Number(s) 34430

Media [Statute] Used Oil

Violation Number 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)	\$2,000	16-Apr-2003	8-Jun-2004	1.1	\$115	n/a	\$115

Notes for DELAYED costs

Estimated cost to maintain and operate the facility to minimize the possibility of fire or explosion.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance \$2,000

TOTAL \$115

Compliance History

Customer/Respondent/Owner-Operator:	CN601403488	EFFLUENT RECYCLING INC	Classification: AVERAGE	Rating: 1.50
Regulated Entity:	RN102755089	EFFLUENT RECYCLING INC	Classification: HIGH	Site Rating: 0.00
ID Number(s):	USED OIL	REGISTRATION	A85740	
	USED OIL	REGISTRATION	C87376	
Location:	1117 S COMMERCE ST, RANGER, TX, 76470		Rating Date: 9/1/03 Repeat Violator: NO	
TCEQ Region:	REGION 03 - ABILENE			
Date Compliance History Prepared:	December 03, 2003			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	December 02, 1998 to December 02, 2003			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Kent B. Heath Phone: (512) 239-4575

Site Compliance History Components

- | | |
|--|------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The dates of investigations.

1 07/22/2002

2 05/21/2003

3 02/15/2002

- E. Written notices of violations (NOV).

N/A

- F. Environmental audits.

N/A

- G. Type of environmental management systems (EMSs).

N/A

- H. Voluntary on-site compliance assessment dates.

N/A

- I. Participation in a voluntary pollution reduction program.

N/A

- J. Early compliance.

N/A

Sites Outside of Texas

N/A

FACILITY 2

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
EFFLUENT RECYCLING, INC.
RN101569879 AND RN102755089**

§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-0619-MLM-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Effluent Recycling, Inc. ("Effluent") under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE chs. 361 and 371. The Executive Director of the TCEQ, represented by the Litigation Division, and Effluent appear before the Commission and together stipulate that:

1. Effluent owns and operates an industrial hazardous waste generation, storage, and disposal facility located at 1010 Benjamin Street, Fort Worth, Tarrant County, Texas ("Facility 1").
2. At the time of the violations, Effluent owned and operated a used oil handling facility at 1117 South Commerce, Ranger, Eastland County, Texas ("Facility 2").
3. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE chs. 361 and 371 and TEX. WATER CODE ch. 26 and TCEQ rules.
4. The Commission and Effluent agree that the Commission has jurisdiction to enter this Agreed Order, and that Effluent is subject to the Commission's jurisdiction.
5. Effluent received notice of the violations alleged in Section II ("Allegations") on or about September 5, 2001, May 5, 2002, May 26, 2003, and March 31, 2007.
6. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Effluent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

7. An administrative penalty in the amount of eighty-six thousand six hundred sixty dollars (\$86,660.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Commission's Financial Administration Division reviewed the financial documentation submitted by Effluent and determined that Effluent is unable to pay part of the administrative penalty. Therefore, eighty-three thousand sixty dollars (\$83,060.00) of the penalty is deferred contingent upon Effluent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Effluent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require Effluent to pay all or part of the deferred penalty.

Effluent paid one hundred dollars (\$100.00) of the undeferred administrative penalty. The remaining amount of three thousand five hundred dollars (\$3,500.00) shall be payable in 35 monthly payments of one hundred dollars (\$100.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Effluent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the acceleration of any remaining balance constitutes the failure by Effluent to timely and satisfactorily comply with all the terms of this Agreed Order and the Executive Director may demand payment of any deferred penalty amount.

8. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
9. The Executive Director of the TCEQ and Effluent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
10. The Executive Director recognizes that Effluent ceased operations at Facility 2 on or about May 2008, when the real estate and equipment was foreclosed on.
11. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Effluent has not complied with one or more of the terms or conditions in this Agreed Order.
12. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

13. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

1. During an investigation conducted at Facility 1 on October 23, 2001, and February 19, 2002, a TCEQ Dallas/Fort Worth Regional Office investigators documented that Effluent violated:
 - a. 30 TEX. ADMIN. CODE §§ 335.2(a) and 335.43(a) and 40 CFR § 270.1(c) by failing to obtain a permit to store hazardous waste in on-site storage tank #3, the in ground tank, and frac tanks #1 and #2. Specifically, sample results from investigations conducted on October 23, 2001 and February 19, 2002 indicated that the on-site storage tank #3, the in-ground tank, and frac tanks #1 and #2 were managing characteristically hazardous waste.
 - b. 30 TEX. ADMIN. CODE § 335.112(a)(8) and 40 CFR §§ 265.173 and 265.176 by failing to close hazardous waste containers, except when necessary to add or remove waste and failing to maintain containers holding ignitable waste at least fifty feet from the Facility's property line. Specifically, frac tanks #1 and #2 containing elevated levels of benzene were not properly closed and did not have seals for any type of closure, as is required. The location of frac tanks #1 and #2 at the southwest corner of the property were approximately ten feet from the property line.
2. During an investigation conducted at Facility 1 on February 15, 2002, TCEQ Dallas-Fort Worth investigators documented that Effluent violated 30 TEX. ADMIN. CODE § 335.112(a)(9) and 40 CFR § 265.192 by failing to provide written assessment that was reviewed and certified by an independent, qualified, registered professional engineer attesting that the tank and tank system had sufficient structural integrity and was acceptable for the storing and treating of hazardous waste. Specifically, Effluent was unable to provide any written assessments that were reviewed and certified by an independent, qualified, registered professional engineer for the in-ground tank and the on-site storage tank #3.
3. During an investigation conducted at Facility 1 on October 23, 2001, TCEQ Dallas-Fort Worth investigators documented that Effluent violated 30 TEX. ADMIN. CODE § 335.112(a)(9) and 40 CFR § 265.193 by failing to install and maintain secondary containment which is designed to prevent any migration of wastes or accumulated liquids out of the system into the soil, groundwater, or surface water at any time during the use of the tank system. Specifically, there was no secondary containment for the in-ground tank or on-site storage tank #3.

4. During an investigation conducted at Facility 1 on October 23, 2001, TCEQ Dallas-Fort Worth investigators documented that Effluent violated 30 TEX. ADMIN. CODE § 335.112(a)(9) and 40 CFR § 265.195(g) by failing to provide documentation for inspections conducted on the tank system. Specifically, there was no documentation to indicate that the Effluent conducted any inspections of the in-ground tank and the on-site storage tank #3.
5. During investigations conducted at Facility 1 on June 6, 2001, October 23, 2001, and February 15, 2002 TCEQ Dallas-Fort Worth investigators documented that Effluent violated:
 - a. 30 TEX. ADMIN. CODE § 335.4(1), by failing to prevent the disposal of industrial solid waste in such a manner to cause the discharge or imminent threat of discharge into or adjacent to the waters in the state without specific authorization. At the time of the June 6, 2001, and October 23, 2001, investigations, the investigator collected soil samples, and analytical results confirmed elevated levels of petroleum constituents. At the time of the June 6, 2001, investigation, gasoline and oil stained soils were observed throughout the property, with significant discharges in the storage tank containment area. Also, during the February 15, 2002, investigation, the investigator observed significant amounts of oils and contaminated water sitting on the earthen floor of the unit, and tank maintenance waters appeared to have discharged from the open top of frac tank #1, affecting the tank and adjacent surface soils within an approximate ten foot radius of the tank.
 - b. 30 TEX. ADMIN. CODE § 335.62 and 40 CFR § 262.11 by failing to conduct a complete Hazardous Waste Determination for the ground storage tank bottoms, the contents of the four storage tanks, the contaminated soil in the roll-off box, the contents of the in-ground tank, and the contents of the two frac tanks. Specifically, samples collected October 23, 2001, revealed a flash point of <40o F from Frac Tank #1, Frac Tank #2 revealed TCLP benzene of 5.8 mg/L, and Storage tank #3 revealed TCLP benzene of 9.6 mg/L. Samples collected February 19, 2002, revealed that the solids from the in-ground tank were 1.5mg/L TCLP benzene and the liquids revealed 0.61 mg/L TCLP benzene.
6. During inspections conducted at Facility 1 on June 6, 2001, and February 15, 2002, a TCEQ Dallas-Fort Worth investigator documented that Effluent violated 30 TEX. ADMIN. CODE §§ 327.3(b) and 327.5(c) by failing to make notifications of reportable discharges or spills into the environment within twenty-four hours. During the June 6, 2001, and February 15, 2002, investigations, the investigator observed large pools of liquids and oily wastes throughout the walled area and significant surface staining throughout the property indicated the occurrence of spills at least since the June 6, 2001, investigation. However, the TCEQ has no records of any notifications of reportable discharges or spills submitted by Effluent.

7. During an investigation conducted at Facility 2 on April 16, 2003, a Dallas-Fort Worth investigator documented that Effluent violated:
 - a. 30 TEX. ADMIN. CODE §§ 335.5 and 335.6(a) by failing to deed record and failing to comply with written or electronic notification requirements for the disposal of industrial solid waste at the Facility.
 - b. 30 TEX. ADMIN. CODE § 324.4, 40 CFR § 279.12(a), and TEX. WATER CODE § 26.121, by failing to manage used oil in such a manner so as not to endanger the welfare of the environment. Used oil shall not be managed in surface impoundments unless subject to 40 CFR Parts 264 or 265. Specifically, the discharge of volatile organics, total petroleum hydrocarbons, and metals have impacted the soil.
 - c. 30 TEX. ADMIN. CODE § 324.6 and 40 CFR § 279.22 by failing to maintain six 12,000 gallon used oil storage tanks in good condition with no visible leaks and labeled or marked clearly with the words "Used Oil." Specifically, the ground was stained from two leaking valves that were connected to two of the 12,000 gallon tanks and the tanks were not labeled.
 - d. 30 TEX. ADMIN. CODE §§ 324.1 and 324.12(3) and 40 CFR §§ 279.44(a) and 279.57 and 279.53(a) by failing to provide documentation to meet the rebuttable presumption for used oil as a transporter and processor/re-refiner under the rebuttable presumption of 40 CFR 279.10(b)(ii) and failing to have a facility analysis plan.
 - e. 30 TEX. ADMIN. CODE § 324.12 and 40 CFR § 279.52 by failing to maintain and operate the Facility to minimize the possibility of a fire or explosion. Specifically, the Facility failed to provide the following: an alarm system capable of providing emergency instructions (voice or signal); a proper number of functional fire extinguishers; adequate volume of water to suppress any possible fires; aisle space for the container storage areas; arrangements to familiarize local authorities with the layout of the Facility.
8. During an investigation conducted at Facility 1 on August 2, 2007, TCEQ Dallas-Fort Worth Regional Office investigators documented that Effluent violated the following requirements:
 - a. 30 TEX. ADMIN. CODE § 324.22(d)(3), by failing to provide secondary containment for all areas where used oil is stored, transferred, or otherwise handled, including, but not limited to, loading docks, parking areas, storage areas, and any other areas where shipments of used oil are held for more than 24 hours. Specifically, used oil had been transported to and stored at the Facility without secondary containment.

- b. 30 TEX. ADMIN. CODE §§ 324.11(2) and 324.4(2)(C)(i), by failing to obtain a registration for transporting and storing used oil. Specifically, approximately 200 55-gallon drums containing used oil had been stored at the Facility for approximately three calendar years.
- c. 30 TEX. ADMIN. CODE §§ 37.2011 and 324.22(b),(c), and (e), by failing to establish and maintain financial assurance for soil remediation. Specifically, Effluent did not have financial assurance at the time of the investigation.
- d. 30 TEX. ADMIN. CODE §§ 324.4(1), by failing to prevent the discharge of used oil from tanks and containers to surface soils. Specifically, used oil and/or hydraulic fluid from an industrial compressor on the property was noted to have discharged to approximately 25 square feet of soil.
- e. 30 TEX. ADMIN. CODE § 334.47(a)(2), by failing to permanently remove from service or bring into timely compliance with upgrade requirements an existing Underground Storage Tank ("UST") system. Specifically, Effluent failed to permanently remove from service or bring into compliance a registered, temporarily out-of-service UST at the Facility.
- f. 30 TEX. ADMIN. CODE § 335.4(1), by failing to prevent the discharge of wastes from tanks and containers to surface soils. Specifically, discharges of dye waste mixed with used oil, petroleum products and/or other wastes and absorbents were observed on approximately 14,000 square feet of soil at the Facility.
- g. 30 TEX. ADMIN. CODE § 335.69(a)(1)(B) and 40 CFR § 265.190, by failing to limit storage of hazardous waste to 90 days or less, and failing to prevent the accumulation and/or storage of hazardous waste in tanks without adequate secondary containment, integrity assessment, and recordkeeping. Specifically, samples of the wastes collected from Frac Tanks 1 and 2 and Storage Tank 3 indicated the wastes were characteristically hazardous for Benzene (D018), and had been stored for approximately three calendar years without secondary containment, integrity assessment, and recordkeeping. In addition, hazardous wastes (Benzene D018) had been stored in three tanks (two stationary "frac" tanks and one tank inside a concrete walled area in the central portion of the property) for approximately three calendar years without secondary containment, integrity assessment, and recordkeeping, which is required under the provisions of 40 Code of Federal Regulations 265 Subchapter J.
- h. 30 TEX. ADMIN. CODE § 335.62 and 40 CFR § 262.11, by failing to conduct an appropriate hazardous waste determination on wastes generated at the Facility.

Specifically, analysis of a sample from a drum of unknown waste located along the north fence line exhibited toxicity characteristic for Chromium (D007). Additionally, no waste determination had been conducted on the contents of a 6,000 gallon poly-plastic tank.

III. DENIALS

Effluent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Effluent pay an administrative penalty as set forth in Section I, Paragraph 7, above. The payment of this administrative penalty and Effluent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Effluent Recycling, Inc., Docket No. 2007-0619-MLM-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Effluent shall undertake the following technical requirements at Facility 1:
 - a. Immediately upon the effective date of the Commission Order, Effluent shall:
 - i. Develop and implement procedures to prevent any unauthorized discharges of wastes, used oil, and any other materials, in accordance with 30 TEX. ADMIN CODE §§ 324.4(1) and 335.4;
 - ii. Begin maintaining documentation of inspections conducted on the in-ground tank and the on-site storage tank #3, in accordance with 40 CFR § 265.195(g); and
 - iii. Remove any hazardous waste exceeding the 90 day storage limitation and ensure it is delivered to an authorized treatment, storage, or disposal facility, in accordance with 30 TEX. ADMIN. CODE § 335.2(b).

- b. Within 30 days after the effective date of the Commission Order, Effluent shall:
- i. Ensure that hazardous waste storage tanks are in compliance with secondary containment requirements, in accordance with 30 TEX. ADMIN. CODE § 335.69(a) and 40 CFR § 265.190;
 - ii. Conduct an appropriate hazardous waste determination on all wastes generated at the Facility;
 - iii. Provide additional training to personnel in order to ensure that hazardous waste containers are closed, except when necessary to add or remove waste and to ensure that containers holding ignitable waste are at least fifty feet from the Facility's property, in accordance with 40 CFR §§ 265.173 and 265.176;
 - iv. Provide written assessment reviewed and certified by an independent, qualified, registered professional engineer attesting that the in-ground tank and the on-site storage tank #330 have sufficient structural integrity and are acceptable for the storing and treating of hazardous waste, in accordance with 40 CFR § 265.192; and
 - v. Provide additional training to personnel in order to ensure that notification of reportable discharges or spills are made as required by 30 TEX. ADMIN. CODE §§ 327.3(b) and 327.5(c).
- c. Within 45 days after the effective date of the Commission Order, Effluent shall:
- i. Submit an administratively complete used oil transportation and storage registration application form, and meet all requirements, including labeling and secondary containment, in accordance with 30 TEX. ADMIN. CODE ch. 324 to:

Registration and Reporting Section, MC 129
Permitting and Remediation Support Division
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
 - ii. Submit documentation that demonstrates acceptable financial assurance for soil remediation, in accordance with 30 TEX. ADMIN. CODE §§ 37.2011 and 324.22(b), (c), and (e), to:

Financial Assurance Team, MC 184
Texas Commission on Environmental Quality
P.O. Box 13807
Austin, Texas 78711-3087

- d. Within 60 days after the effective date of the Commission Order, Effluent shall bring the existing UST tank into compliance with applicable UST rules and regulations or have it properly removed by a licensed/registered contractor, in accordance with 30 TEX. ADMIN. CODE § 334.47(a)(2);
- e. Within 90 days after the effective date of the Commission Order, Effluent shall submit to the Executive Director for approval an Affected Property Assessment Report ("APAR"), pursuant to 30 TEX. ADMIN. CODE § 350.91, and, if response actions are necessary, comply with all applicable requirements of the Texas Risk Reduction Program ("TRRP") found in 30 TEX. ADMIN. CODE ch. 350 which may include: plans, reports, and notices under Subchapter E (30 TEX. ADMIN. CODE §§ 350.92 to 350.96); financial assurance (30 TEX. ADMIN. CODE § 350.33(l)); and Institutional Controls under Subchapter F, to:

Remediation Division, MC 225
Texas Commission on Environmental Quality
P.O. Box 13807
Austin, Texas 78711-3087

- f. Within 105 days after the effective date of the Commission Order, Effluent shall submit written certification and detailed supporting documentation, including photographs, receipts, and /or other records, to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.e. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Effluent shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Sam Barrett, Waste Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2301 Gravel Drive
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon Effluent. Effluent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Effluent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Effluent's failure to comply is not a violation of this Agreed Order. Effluent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Effluent shall notify the Executive Director within seven days after Effluent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Effluent shall be made in writing to the Executive Director. Extensions are not effective until Effluent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Effluent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be

transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T. CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Effluent, or three days after the date on which the Commission mails notice of the Order to Effluent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

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